IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

WRIT PETITION NO.3586 OF 2004

Tina Urmit Aniljit Singh ...Petitioner

Vs.

Aniljit Mohanjit Singh ...Respondent

And

Her Honour Judge Smt.Bhat ...Respondent

....

Mrs.Mrunali Deshmukh i/b Shiralkar & Co. for Petitioner
Mr.S.Mridul with Mr.V.Malhotra, Mr.Saeed Akhtar and Mr.Dave K.K. for Respondents

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CORAM : B.H.MARLAPALLE,J.
DATE : MARCH 11,2005

P.C.:

1. Being aggrieved by the order dated 5.4.2004 passed by the learned Judge of the IIIrd Family Court at Mumbai disposing of the interim application Exh.10, the wife has filed this petition. After hearing the learned counsel for the petitioner, it is clear that the wife is mainly aggrieved by the order of access granted to the respondent-husband during the vacations i.e. Diwali, winter and summer vacations.

2. This Court (Coram: D.B.Bhosale, J.) after talking to the parents i.e. the present petitioner

and the respondent and two children viz. Govind and Arjun in the chamber on three different occasions and in the presence of the learned counsel appearing for the parties, was pleased to modify the impugned order regarding the access during the vacation. The father was allowed to take the sons to Delhi for a period of 12 days in the summer vacation and before taking the children on vacation, he was directed to stay at Mumbai two days prior in time and take them for 3 to 4 hours on each of the days between 10.00 a.m. to 6.00 p.m. It was left open for the petitioner to send a maid servant to look after the children if they were to be taken to Delhi during the summer vacation and obviously at the instance of the respondent-husband, she was also granted access to meet the children while they would be on vacation in Delhi. The respondent-husband was directed to file an undertaking with the Registry of this Court that he would scrupulously follow the conditions set out in the order.

3. By the subsequent order dated 5.11.2004, it was clarified that the 12 days vacation for the children with their father was only in India and not abroad. The Family Court was expected to proceed with the hearing of all the three petitions pending between the parties i.e. for divorce, custody and maintenance as expeditiously as possible and

preferably within a period of six months from 5.11.2004. The learned counsel for the petitioner pointed out that all the three petitions have been clubbed together and assigned to Court no.2 which is presently vacant. I have been informed by the Registrar General on a specific query that the said post is likely to be filled in within a period of two to four weeks and in any case in the meanwhile, all these petitions could be assigned by the Principal Judge to any one of other six courts depending upon the workload so as to maintain the time limit. It does not appear from the record that the Registry has received any report praying for extension of time schedule of six months and therefore, the time limit set out would expire by the first week of May, 2005.

4. On oral instructions, the learned counsel for the petitioner stated that the ensuing summer vacation for the children is likely to commence from 24.4.2005 and may end on 6.6.2005. The petitioner has no objection in giving access to the respondent for a period of twelve days during the ensuing summer vacation so as to take children on holidays to Delhi or to some other place but not outside India. The elder son Govind is over eight years of age whereas the younger son Arjun is over four years of age and it was therefore, submitted on behalf of petitioner-mother that the husband may not be in a

position to take appropriate care of the children however, this Court had already granted liberty to her to speak to her maid servant and her children if so required and some directions would be applicable even for the ensuing vacation.

5. This petition could therefore, be disposed of by maintaining terms of the orders dated 6.5.2004 and 5.11.2004 for grant of access to the father to his minor sons during this summer vacation in modification of the order impugned to that extent. It is further directed that the Principal Judge of the Family Court at Mumbai will assign three petitions i.e. divorce, custody and maintenance to an appropriate Court if the existing vacancy is not filled in within a period of three weeks from today so that these petitions are disposed of as expeditiously as possible and in any case by the end of June, 2005. The respective parties have furnished an undertaking before this Court that they would not seek any unwarranted adjournments and would do their best in assisting the Family Court to ensure that petitions are disposed of by 30.6.2005.

6. The petition is disposed of accordingly.

[B.H.MARLAPALLE,J.]